

AMENDED IN ASSEMBLY JUNE 23, 2004

AMENDED IN ASSEMBLY JUNE 7, 2004

AMENDED IN SENATE MAY 4, 2004

**SENATE BILL**

**No. 1901**

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**Introduced by Senator Alarcon**

*(Coauthors: Assembly Members Koretz and Leno)*

March 4, 2004

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An act to add Section 6713 to the Labor Code, relating to safety in employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1901, as amended, Alarcon. Safety in employment: grape tasting.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to provide safe and healthful working conditions for all employees, and provides penalties for employers who fail to comply with the act's provisions.

This bill would prohibit employers from requiring harvesting employees to taste or consume unwashed grapes in the field or prior to processing, except in limited circumstances and under certain conditions. The bill would impose civil penalties, as specified, for employers who violate the bill's provisions, in addition to any other penalty provided by law. Because certain violations of the bill's prohibitions would constitute criminal offenses, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) In recent years, some agricultural employers have required  
4 their harvesting employees to taste table grapes as they harvest to  
5 determine whether specific bunches are sweet enough for  
6 harvesting. Almost all other employers in the table grape industry  
7 reject this practice and instead utilize a refractometer for the  
8 purpose of determining the suitability of table grapes for harvest.

9 (b) The forced tasting of table grapes prior to harvest violates  
10 standards of common decency as well as the standard safety  
11 training given to fieldworkers and the general public to wash  
12 produce before eating it. There is evidence that forced tasting  
13 practices have caused some workers to get sick or develop other  
14 health problems, and thus clearly violate existing health and safety  
15 protections.

16 (c) Because a fieldworker's hands quickly become laden with  
17 pesticide and microbe contaminated dust during harvest and other  
18 hand labor work, it is therefore impossible for field workers to  
19 adequately clean table grapes for tasting while engaged in the  
20 principle work task of harvesting and it is in the public interest to  
21 establish clear standards to safeguard the health of employees in  
22 the table grape industry who may be adversely affected by forced  
23 grape tasting practices.

24 (d) This legislation shall be known as the "Table Grape Worker  
25 Safety Act of 2004."

26 SEC. 2. Section 6713 is added to the Labor Code, to read:

27 6713. (a) Except as provided in subdivision (b), it is unlawful  
28 for an employer to require an employee to taste or consume table  
29 grapes in the field or prior to processing.

30 (b) When an employer can demonstrate that no method for  
31 determining whether table grapes are ready or suitable for

1 harvesting exists other than in-the-field or pre-processing tasting  
2 by humans, tasting is permitted if the employer complies with all  
3 of the following:

4 (1) The tasting is performed only by a supervisory employee  
5 who is paid exclusively on an hourly or salaried basis and has  
6 received training in safe tasting practices within the previous  
7 calendar year.

8 (2) Sufficient potable water and soap are carried by all  
9 supervisory employees who perform tasting for washing the  
10 commodity and for hand washing prior to tasting.

11 (3) All employees are instructed and required to wash their  
12 hands with soap and water and the table grapes with water before  
13 tasting or consumption.

14 (4) The employer's injury and illness prevention plan  
15 addresses the circumstances and conditions under which tasting or  
16 consuming may be required or allowed.

17 (c) Notwithstanding subdivision (b), under no circumstances  
18 shall any supervisory employee be required to taste or consume  
19 table grapes in the field or prior to processing ~~before~~ *prior to the*  
20 *expiration of* all pesticide restricted entry intervals and pre-harvest  
21 intervals ~~have expired~~.

22 (d) An employer who violates this section is subject to a  
23 minimum civil penalty in the amount of five hundred dollars  
24 (\$500) per employee, per violation, in an initial citation and one  
25 thousand dollars (\$1,000) per employee, per violation, in any  
26 subsequent citation. The civil penalties provided for in this section  
27 are in addition to any other penalty provided by law.

28 SEC. 3. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.